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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

for Commission staff to handle the immense volume of work that will be generated by its new responsibilities to implement the Cable Act of 1992, as well as the putative benefits that will be derived to franchising authorities and cable operators by giving them more time to effectuate a smooth transition to rate regulation. See generally paragraphs 2 and 3 of the June 11, 1993 Order.

intended should occur when it adopted new Section 612(a) of the Rules.<sup>2/</sup>

Essentially, rate regulation of basic and extended basic tiers is intended to protect consumers from over pricing by cable operators. The Commission involvement in that process is inevitable and its lack of resources to carry out this task is a compelling and necessary ingredient of the decision to defer the implementation date. There is no initial involvement, however, by the Commission in the negotiation of access to commercial leased channels with cable operators on rates or any other terms and conditions of access. That process should not be delayed and need not be delayed because of the lack of resources at the Commission to presently adjudicate complaints that might be generated in the future out of those negotiations.

Since deferral of the effective date for commercial leased access is not necessary to protect any of the concerns expressed by the Commission in its June 11, 1993 Order and otherwise unnecessarily delays the benefits to be derived from such access, the Commission should issue a further order making plain that cable operators are not now relieved of the obligation to establish maximum reasonable rates (and other terms and conditions) for commercial leased access and are required to enter into

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<sup>2/</sup> Section 612(a) provides as follows: "The purpose of this section is to promote competition in the delivery of diverse sources of video programming and to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems."

negotiations in good faith with cable programmers under Section 612 of the Communications Act.

SUR has, this date, filed a Petition for Reconsideration of the May 3, 1993 Report and Order in this proceeding requesting that the Commission adopt certain changes in the operation of the commercial leased access rules. There is nothing in SUR's Petition for Reconsideration, even if adopted in its totality by the Commission, that would give reason for deferral of the negotiations that should be commenced by cable operators and program providers as soon as possible. Cable operators have been on notice since May 3, 1993 that they were required by June 21, 1993 to have set the maximum rates and other terms and conditions for access to their systems under the commercial leased access rules. SUR is unaware of any cable operator that has claimed it has been unable to comply with that time frame or that its private interest or the public interest requires delay in implementation of the commercial leased

Commission is a sensible means of implementing the commercial leased access rules without harm to any party.<sup>3/</sup>

Because the Commission can keep in place that portion of its Order which prohibits the acceptance of any complaints filed with it to adjudicate disputes over commercial leased access until October 1, 1993, the resources of the Commission will not now have to be devoted to settling of disputes which the Commission is now unable to address. The Commission should, at the same time, make plain that cable systems will be required in good faith to engage in negotiations and establish maximum rates under the current rules during the period prior to October 1, 1993. In that manner the public interest will be served in all respects and the benefits which the Commission intended to gain by adoption of its deferral order will not be undermined.

Respectfully submitted

SUR CORPORATION

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<sup>3/</sup> Even changes in the Commission's method of calculating maximum commercial leased access rates can be readily adopted to any inconsistent agreements entered into between operators and program providers before October 1, 1993.